

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 73 – HB 63

March 2, 2015

SUMMARY OF ORIGINAL BILL: Authorizes the Commissioner of the Department of Agriculture (DOA) to deny, revoke, suspend, or modify any license, charter, or certification, and to impose civil penalties up to \$1,000, or issue warning notices, for violations of the Tennessee Application of Pesticides Act of 1978, without first having to conduct a hearing.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – Exceeds \$2,000/Agriculture Regulatory Fund

IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Expenditures - Exceeds \$2,000

SUMMARY OF AMENDMENT (003611): Deletes all language of the original bill except for the effective date clause. Authorizes the Commissioner of the Department of Agriculture (DOA) to deny, revoke, suspend, or modify any license, charter, or certification for any person, and to impose civil penalties up to \$1,000, or issue warning notices, or combinations thereof, for violations of the Tennessee Application of Pesticides Act of 1978; requires the Commissioner to provide any person against whom a violation is alleged a 10-day written notice for requesting a hearing; and authorizes a 120-day grace period to the suspended charter holder to allow for another qualified person to be examined.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 62-21-118, the Commissioner of DOA has the power and duty to administer the provisions of the Tennessee Application of Pesticides Act of 1978 (the Act).
- Pursuant to Tenn. Code Ann. § 62-21-119(a), the Commissioner is required to conduct a hearing for the purpose of denying, revoking, suspending, or modifying a license, charter or certification, when a person has violated provisions of the Act.
- The Uniform Administrative Procedures Act (UAPA), specifically Tenn. Code Ann. § 4-5-320(c), requires a hearing for proceedings affecting a license or permit.

- Section 1 of this bill removes the requirement pursuant to Tenn. Code Ann. § 62-21-119(a), but the requirement pursuant to the UAPA will remain.
- DOA confirms that the Department will be regulated by the UAPA with respect to license and permit issues if this bill is enacted. As a result, the Commissioner will still be required to conduct hearings on such issues. Therefore, any fiscal impact applicable to hearings is considered to be not significant.
- According to DOA, civil penalties may not be imposed under current law on a person who has not obtained a charter, license, or certificate, or on individuals that have let their charter, license, or certificate expire. DOA indicated that enactment of this bill will provide the Department the ability to assess civil penalties on such individuals up to a maximum of \$1,000.
- Based on information provided by DOA, the average civil penalty is estimated to be \$250.
- According to the DOA, the department issues approximately 81 civil penalties per year under current law.
- It is estimated that a minimum of eight additional civil penalties will be assessed per year as a result of this bill.
- DOA indicates that any civil penalty revenue will be deposited to the Agriculture Regulatory Fund
- The recurring increase in state revenue to the Agriculture Regulatory Fund is estimated to exceed \$2,000 (\$250 average penalty x 8 minimum additional penalties) per year.
- Any fiscal impacts for requiring a 10-day notice and 120-day grace period is estimated to be not significant.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The minimum eight additional civil penalties will be paid by pesticide applicator businesses found in violation of Tennessee Application of Pesticides Act. As a result, the recurring increase in business expenditures is estimated to exceed \$2,000.
- Any fiscal impacts to revenue and expenditures to businesses for requiring a 10 day notice and 120 day grace period is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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